



Collective Bargaining Bulletin

A REVIEW OF CONTRACT NEGOTIATION AND ADMINISTRATION

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Contract Settlements

Terms of settlements reported June 8-21 and weighted average, average, and median wage increases are in *Table of Contract Settlements* at 19:4041.

USW, Northrop Grumman Accord Features Redesigned Health Plan, Enhanced Pensions

United Steelworkers members June 9 ratified a 52-month contract with Northrop Grumman Newport News that reduces employee contributions for health care premiums, while increasing some out-of-pocket costs; increases pension benefits; and bolsters outsourcing protections.

The contract, which covers about 8,500 workers at the Newport News, Va., shipyard, calls for employees in the higher pay grades to receive an immediate increase of 4 percent, while all others receive 3.5 percent. Wages for all workers increase 3.5 percent in July 2005 and August 2006 and 4 percent in September 2007. In addition, the automatic progression period is cut in half from almost 18 years to just over nine years.

Because of skyrocketing health care costs, the parties negotiated a redesign in the health plan, the union said. Employees for the first time pay an annual deductible for in-network services, the out-of-pocket maximum and prescription drug copayments are increased, and most services now are covered at 90 percent, down from 100 percent. At the same time, employee premium contributions are reduced from current levels, and the employees' share of increases in health care costs is reduced from 50 percent to 25 percent.

For workers who retired before June 7, the company will continue to provide retiree health insurance up to age 65 on the same cost-sharing basis as for active workers. For those retiring after that date, the employer's contribution will be capped at \$550 per month. The company will not provide retiree health care coverage for workers hired after June 7, but they will be able to purchase coverage at group rates.

Pension benefits increase from \$29 to \$40 per month per year of service, and a cash balance pension plan is instituted for workers hired after June 7.

Major language changes on outsourcing provide that bargaining unit work will not be contracted out if it would cause employees to be laid off, restrict the use of "leased labor," and require earlier notice of plans to contract out work so employees can be involved at an earlier stage.

Compensation System at Sharp Hospitals Changed From Merit to Experience-Based

A wage scale based on seniority will replace a merit pay system under terms of a new three-year contract between Sharp HealthCare and the United Nurses Associations of California. The agreement, covering about 2,800 registered nurses at seven hospitals in San Diego, was ratified June 9-10.

The merit-based system, which the union called "inequitable and management driven," will be discontinued Sept. 30. RNs will be placed on the appropriate step of the new pay scale, based on years of experience, on their next anniversary date beginning Oct. 1. All nurses will be on the new scale on or before Sept. 30, 2005, according to the union.

Each nurse initially will receive a minimum increase of 3 percent as he/she is placed on the new scale, while some will get increases of 8 percent to 10

percent, UNAC said. After initial placement, RNs will move through the steps on their anniversary dates. A nurse receives a 2 percent increase for moving up each of the first six steps, and a 2.5 percent increase for moving up each of the remaining 16 steps. In addition, the new wage scale will increase 3 percent Oct. 1, 2005, and Oct. 1, 2006.

Under the prior contract, the average base salary for the bargaining unit was \$63,500 per year, a rate comparable to other hospitals, according to Sharp.

For the first time, nurses will receive wage differentials based on their educational experience, with nurses holding a bachelor's degree in nursing earning a 2 percent differential on all hours worked and those holding a master's degree in a health-related field earning a 4 percent differential. The evening shift differential increases from \$1.75 an hour to \$2 an hour; the night differential increases from \$3 an hour to \$4 an hour; and the charge differential is 5 percent provided the RN has charge nurse responsibility for at least two hours during the shift, down from four hours.

Provisions designed to benefit senior nurses stipulate that those with 20 or more years of service will not be required to float; can use the education assistance program to pay for travel and lodging, in addition to tuition and books; and receive an additional eight hours of paid time off in the third year.

Weyerhaeuser, IAM Accord Sets Pattern for Timber Firms

Members of the International Association of Machinists June 11 ratified a new four-year contract covering about 2,100 Weyerhaeuser Co.

loggers and mill workers in Oregon and Washington.

The agreement is expected to set the pattern for contracts expiring this summer at western wood products companies that employ another 2,000 workers represented by IAM and 15,000 workers represented by the Western Council of Industrial Workers, a Carpenters and Joiners of America affiliate. The two unions are bargaining jointly.

The Weyerhaeuser agreement calls for wage hikes and increased health insurance contributions from both the company and employees that the parties hope will maintain the present level of benefits for the next four years, IAM said.

Employees receive a \$1,000 signing bonus and a 55-cent-per-hour wage increase in the second, third, and fourth years. Currently, most mill jobs pay about \$17 per hour. However, beginning in the second year, about half the annual pay increases will be diverted to the health plan.

Weyerhaeuser's \$3.52 per hour per employee contribution to the health-welfare fund will increase 60 cents in the first year, 30 cents in the second year, and 27.5 cents in the third and fourth years. Diversions from employee pay to the fund will be 30 cents in the second year and 27.5 cents in the third and fourth years.

Agreement on the funding increases to maintain health care benefits did not leave much extra money to work with, IAM said. The only other major benefit change increases the monthly pension benefit from \$35 per year of service to \$40 per year of service by end of term.

Iron Workers to Arbitrate Health and Pension Disputes

Health-welfare and pension benefit disputes will be subject to binding arbitration under a new three-year contract between the Associated General Contractors' St. Paul chapter and the Bridge, Structural and Ornamental Iron Workers. The agreement, ratified June 7, covers about 1,600 structural iron workers.

Management negotiators said that the financial condition of the benefit funds had to be addressed before an agreement could be reached this year. In reports to its members, AGC said that benefit costs were outstripping revenues, and contended that it was customary in construction industry Taft-Hartley Act benefit plans for binding arbitration provisions to extend to disputes over benefit levels.

Union negotiators rejected AGC proposals to reduce benefits to address financial concerns, but agreed to binding arbitration of benefit disputes beginning in September 2006.

Meanwhile, AGC said trustees for both funds "will be forced to deal with some pressing financial issues," an indication that a considerable percentage of increases negotiated in the new contract may need to be allocated to the funds to avoid a breach of fiduciary duties.

An hourly wage-benefit package of \$43.44 increases \$1.95 initially and \$1.55 in the second and third years. "[M]ost if not all" of this year's increase will need to be allocated to the funds, the union predicted.

The maximum benefit fund bond that must be posted by employers increases from \$50,000 to \$100,000, and the Occupational Safety and Health Administration's 10-hour safety training course will be mandatory for all workers by end of term.

Paul N. Wojcik,
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Robert A. Robbins, *Executive Editor*

Heather Bodell, *Managing Editor*

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Arbitrating the Contract

Union Entitled to Information On Senior Qualified Applicants

An employer awarded a new coordinator position to some junior employees over senior employees. The union requested information from the employer—including personnel files and all records pertaining to certifications and training—to determine whether the employer had failed to award the position to “senior qualified” applicants in accordance with the bargaining agreement.

A week later, the union filed a grievance claiming that the position should have been awarded based on seniority hiring date, since the employer had failed to establish the qualifications of the employees who got the job.

The employer contended that it never provided the requested information because the union needed to secure written releases from the workers. In addition, it argued that the union failed to prove that the senior employees were qualified.

Award: An arbitrator remanded the case and retained jurisdiction for one year (*Safetran Sys.*, 119 LA 616 (Duff, 2004)).

Discussion: The arbitrator rejected any suggestion that the new position could be awarded based on seniority alone, finding that “misguided notion” incompatible with the contract requirement that jobs be awarded to “senior qualified” applicants.

The employer’s determination of whether applicants had the requisite qualifications and skills for the coordinator job was a managerial prerogative and was, “so far as the available information indicates, done reasonably,” the arbitrator also found.

However, the employer could not simply deem junior employees as qualified without explaining why the senior employees had been passed over, the arbitrator said. “The Company is not free to withhold the basis underlying its decision making process and then claim that the Grievants and the Union fumbled with their proof because of the very lack of useful information given to them.”

The union was entitled to adequate information from the employer so it could meaningfully compare the competing candidates, the arbitrator

concluded, remanding the case to the parties in order for the employer to disclose all facts and documents used in making its decision.

Pointers: In cases where the employer has refused to furnish the union with information that it needs to pursue the grievance, arbitrators may preclude the employer from relying on that information at the hearing or may draw an adverse inference against the employer.

For example, one arbitrator ruled that the employer’s attempt to introduce documents in support of its decision to discharge an employee for an alleged assault was a violation of due process, where the employer withheld this information from the union until a few minutes before the hearing started (*Boise Cascade Corp.*, 114 LA 1379 (Crider, 2000)).

Another arbitrator drew an inference that a grievant, who was fired for falsifying his application, had been disparately treated, after the employer failed to produce records that would show why a co-worker who had done the same thing was retained (*Engelhard Corp.*, 100 LA 238 (Duda Jr., 1993)).

An employer was prohibited from introducing documents that it had relied on in its decision to terminate the grievant for an alleged theft, where the employer had flatly denied the union’s timely requests for this information, according to one arbitrator (*Avis Rent-A-Car*, 99 LA 277 (DeLoach, 1992)).

Another arbitrator announced but did not apply the rule that “if I learn that one party without good cause has withheld or is withholding pertinent information . . . I will feel free to assume, should it seem to me appropriate to do so, that the withheld, repressed or concealed information would undercut the position of the party in whose control it is” (*Social Security Admin.*, 86 LA 1205 (Kubie, 1986)).

The case discussion above is designed to illustrate how arbitrators resolve disputes. “LA” references are to BNA’s weekly Labor Arbitration Reports. For a discussion of union access to information, see CBNC chapter Implementing the Contract at 8:4501, and for sample language, see Furnishing Information to Union at 140:1001.

News in Brief

Union Members Ratify Accords

International Longshoremen’s Association members June 8 ratified a six-year contract covering about 15,000 East and Gulf Coast dockworkers that includes pay hikes and job security provisions (9 COBB 37, 4/1/04). Service Employees International Union members June 11 ratified a four-year accord providing 14,000 workers at 28 hospitals owned by Catholic Healthcare West throughout California with wage increases averaging 20 percent over term (9 COBB 67, 6/10/04). Meanwhile, Harvard Union of Clerical and Technical Workers members June 17 ratified a three-year contract providing 4,700 university workers with wage increases totaling 6.5 percent (9 COBB 68, 06/10/04).

NLRB Invites Amicus Briefs

The National Labor Relations Board June 14 issued a notice asking for amicus briefs in two consolidated cases that raise the issue of whether an employer’s voluntary recognition of a union bars the filing of a decertification petition for a reasonable period of time (*Dana Corp.*, N.L.R.B., No. 8-RD-1976, notice 6/14/04). The invitation followed the board’s decision June 7 to review dismissals of two decertification petitions filed a few weeks after companies recognized a union pursuant to a neutrality agreement and card-check procedure (9 COBB 69, 6/10/04). The deadline for filing amicus briefs is July 15.

Survey Predicts Strong Hiring

U.S. employers continue to show widespread confidence about the prospects for jobs in the third quarter, with this spring’s strong hiring trend expected to continue through September, a survey released June 15 by Manpower Inc. showed. Employment is expected to increase in six of 10 industry sectors in the third quarter. Information is available at <http://www.manpower.com>.

CPI Up Sharply in May

Consumer prices rose an adjusted 0.6 percent in May, the Bureau of Labor Statistics reported. Monthly data are in *Consumer Price Index for 2004* in the manual; the government report is available at <http://www.bls.gov/news.release/cpi.nr0.htm>.

Facts & Figures

Number of Elections Decreased in 2003, But Union Win Rate Up

The number of union representation elections held by the National Labor Relations Board in 2003 decreased from the previous year, while the win rate of unions increased for the seventh consecutive year, according to preliminary findings from NLRB data analyzed by BNA PLUS, BNA's research division.

The number of representation elections held in 2003 decreased to 2,333 from 2,723 in 2002, continuing a sharp decline in NLRB elections since 1996, when about 3,300 elections were conducted. The number of elections won by unions decreased to 1,348 in 2003 from 1,545 in 2002.

However, unions won 57.8 percent of NLRB representation elections held in 2003—the highest union win rate in the 16 years that election data has been analyzed by BNA PLUS. In 2002, the union win rate was 56.7 percent. Unions have won a majority of representation elections every year since 1996, when the win rate stood at 47.7 percent.

The number of eligible voters in representation elections fell to

148,903 in 2003 from 191,319 in 2002. In elections won by unions, the number of eligible voters decreased from 82,719 in 2002 to 74,309 in 2003.

The number of decertification elections held in 2003 decreased to 403 from 454 in 2002. Unions prevailed in 154 or 38.2 percent of decertification elections, compared with 142 or 31.3 percent in 2002.

Of the five unions most active in representation elections held in 2003, the International Brotherhood of Teamsters held the most elections with 567. The union participating in the second highest number of elections was the Service Employees International Union with 244, followed by the United Food and Commercial Workers with 209 elections, the International Brotherhood of Electrical Workers with 149 elections, and the International Union of Operating Engineers with 123 elections.

SEIU was the most successful of these unions, winning 75.8 percent of the representation elections in which it participated. IUOE ranked second, winning 55.3 percent of its elections,

followed by IBEW (55 percent), UFCW (46.9 percent), and IBT (46.2 percent).

IUOE was the most successful in defending itself in decertification elections, winning 56.3 percent of 16 elections. The Teamsters participated in the most decertification elections (121) and won fewer than one-quarter (23.1 percent).

Of the five unions, SEIU organized the most workers, with 17,995 eligible voters in the NLRB representation elections it won.

These NLRB statistics do not reflect the full extent of organizing conducted by unions. Many unions organize largely through neutrality and card-check agreements and other non-NLRB methods. The unions' increasing use of alternative organizing methods is one reason for the decline in the number of board elections.

BNA PLUS® maintains a database of NLRB election information compiled on a calendar-year basis dating from 1985. For more information, call 800-452-7773 or (202) 452-4323 in the Washington, D.C., area.

Representation Elections 2002 - 2003*, by Union Affiliation

January - December	Number of Elections						Percent of Elections Won by Union		Number of Employees Eligible to Vote			
	Held		Won by Union		No Union Chosen				In All Elections		In Elections Won by Union	
	2002	2003	2002	2003	2002	2003	2002	2003	2002	2003	2002	2003
Total Elections	2,723	2,333	1,545	1,348	1,178	985	56.7%	57.8%	191,319	148,903	82,719	74,309
AFL-CIO (Excluding Teamsters)	1,800	1,581	1,062	943	738	638	59.0%	59.6%	133,626	110,720	57,715	54,512
Teamsters	700	567	310	262	390	305	44.3%	46.2%	36,098	29,323	11,232	9,937
National Independent Unions	171	156	108	88	63	68	63.2%	56.4%	14,015	9,640	6,433	5,340
Local Independent Unions	113	98	68	63	45	35	60.2%	64.3%	14,860	13,125	8,155	6,912

*Does not include decertification elections

Note: Row or column numbers may sum to more than total because of multiunion elections.

A BNA Graphic/cbn413g1

BNA Interview

Hospitals Face Increased Scrutiny as Unions Press Agendas

Although unions represent only about 10 percent of health care workers, they have exerted influence on the industry in areas beyond the traditional labor issues of wages, hours, and working conditions, according to health care attorneys interviewed by BNA.

In the past few years, unions have played a significant role in exposing hospital billing and collection practices affecting under-insured and uninsured patients, questioning the charity mission of nonprofit entities, scrutinizing health plan and provider consolidation efforts, and protesting staffing shortages that adversely affect patient care, attorneys told BNA.

Whether driven by a desire to improve health care quality and availability or simply by the goal of adding to the number of unionized workers in the United States, labor unions are taking actions that have a profound effect on the health care delivery landscape, the attorneys agreed.

In addition, some predicted the pressure exerted by unions will only increase as labor organizations succeed in establishing new footholds in hospitals, long-term care facilities, and other health care entities.

Scrutiny Can Lead to Action

Unions are playing an increasingly significant role in the way health care organizations are monitored and regulated, according to Michael W. Peregrine, with McDermott, Will & Emery in Chicago.

Unions' attention recently has begun to shine light on areas that largely have been the province of state and federal regulators, such as corporate governance and mergers involving health care providers or health plans, he said.

"They are using their influence to bring attention to their concerns over corporate management and decision-making in the health care industry and, with respect to corporate governance issues, are rapidly establishing a third compliance front separate from those dominated by government regulators and state attorneys general," Peregrine added.

"This increased scrutiny impacts both nonprofit and for-profit health care providers and reflects a kind of interdependence where government regulators, unions, and other third parties take turns exposing and pursuing perceived problems in the health care delivery and payment arena," he said.

"The fact of the matter is that their motive, whether it is to improve health care or build union membership, is irrelevant. Labor unions, willing to use aggressive and sophisticated strategies pressed in a very public matter, are a force to be reckoned with," Peregrine said.

Union activity and pressure has long been a staple of the health care political landscape in California, and clearly is on track to obtaining influence nationally, said Andrew J. Demetriou, with Jones Day in Los Angeles. For example, the organizing and advocacy message of the California Nurses Association is spreading to the nursing affiliates of the Service Employees International Union; the American Federation of State, County and Municipal Employees; and other unions.

The California law mandating minimum nurse staff ratios "is a perfect example of a union-induced policy development that is gaining momentum in other jurisdictions," Demetriou said.

Other examples of union-driven initiatives include:

- AFSCME efforts that publicize the effects of low nurse-to-patient ratios and their role as a contributor to preventable injuries and deaths;

- a stream of reports from an SEIU local that Sutter Health Corp. charges significantly higher prices for its services, has higher Medicare outlier charges, and engages in discriminatory practices, which may have contributed to the May 19 decision by the California Public Employees' Retirement System board to exclude 13 Sutter hospitals in the state from its health plan network in 2005;

- union allegations on pricing policies for hospital services to low-income and uninsured patients of

Provena Covenant Medical Center that, according to Peregrine, led to the revocation of the central Illinois hospital's property tax exemption;

- reports by SEIU and AFSCME locals that detail the charity care practices of Sutter hospitals in California, Resurrection Health Care, a hospital system operating in Northern Illinois, and Chicago's Advocate Health Care;

- use of community pressure supported by AFSCME that is attempting to prevent Resurrection from merging and reducing services at two hospitals it purchased in 2001; and

- lawsuits by AFSCME and other unions charging pharmacy benefit managers with unfair competition and deceptive practices.

Objectives Gained by Efforts

Obtaining representation for health care workers serves many industrywide as well as facility-specific health care improvement objectives, according to SEIU. Those objectives include securing improved benefits for hospital and health care facility workers and their families, who also may be uninsured and potential victims of discriminatory billing and collection practices.

Putting patients first is a key union goal, as is giving health care workers the time and support they need to provide quality care through safe staffing, according to SEIU.

T.J. Michels, a spokeswoman for SEIU in Washington, D.C., said the union seeks to build on the interplay between quality-of-work improvements for front-line health care workers and worker retention. A nurse who has poor benefits, is unable to participate in the process of improving health care at a given facility, or is chronically overworked is more likely to leave the profession, exacerbating an already difficult nurse staffing situation and further compromising patient care, Michels said.

SEIU has gained nearly a quarter million new health care employees as members in the last four years, ac-

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cording to Michels. Of the union's 1.6 million members, about 110,000 are nurses, more than 145,000 are nursing home workers, nearly 300,000 are home care workers, and nearly 40,000 are doctors.

Union Aims, Tactics Questioned

In working to require mandatory staffing ratios, nurses have exercised their union-backed clout to pursue their sincerely held commitment to improving patient care, Demetriou said. "Whether you agree with the imposition of mandatory and fairly rigid ratios and staffing requirements, there seems to be little disagreement that having adequate staffing improves patient care."

Bonnie S. Brier, with Children's Hospital of Pennsylvania, Philadelphia, said nurses and other front-line health care workers dedicated to the delivery of high quality health care clearly have a bona fide interest in bringing attention to problems at health care facilities.

"From what I have seen, it is very hard for a health care worker if you believe patient care is suffering for any preventable reason," Brier said. For these employees, health care quality interests align with workplace safety, quality of work, and employee benefit issues that traditionally are the focus of union activity, she added.

"What tends to get lost in this discussion, however, is that measures designed to improve patient care can strain the resources of the health care system as a whole and may ultimately contribute to a reduction in the amount of care available to those who may need it most," she said.

Several attorneys who asked not to be identified said certain union initiatives designed to bring attention to management missteps and corporate governance issues simply are "tactics that are common in old fashioned labor disputes where any action that gives a union leverage to get management to bargain more reasonably is fair game."

These tactics, they said, run the gamut from exposing excessive compensation deals, questionable or insider contracting arrangements, or other management decisions that may be illegal or merely embarrassing to a corporation, its management, or board members. In some instances, unions have targeted a board member directly by protesting at unrelated facilities with which the member is affiliated.

In the Courts

Decline in Dues Checkoffs Is Evidence Union Lacked Support

A decline in dues checkoffs among employees of a nursing home was the type of evidence necessary to show that the company believed the union lacked majority status, the U.S. Court of Appeals for the Fifth Circuit ruled June 21 in refusing to enforce a National Labor Relations Board bargaining order (*Tri-State Health Serv. Inc. d/b/a Eden Garden Nursing Home*, 5th Cir., No. 03-60498, 6/21/04).

The union was certified as the bargaining representative of the nursing home's unskilled workers at a time the facility was leased by the employer to a management firm. By the time a bargaining agreement was signed, the facility had been subleased, and experienced a number of employment problems.

The dispute arose when the employer took control of the facility, but failed to notify the union of the change in management or respond to the union's demand to negotiate a new agreement.

The employer said its refusal to bargain was based on doubt the union still had the support of a majority of the unit. Among reasons for its doubt the employer cited the fact that in less than two years, the number of employees authorizing dues checkoffs went from 11 to zero. NLRB ruled the company lacked sufficient justification for refusing to bargain.

Finding it was reasonable for the employer to interpret declining dues checkoffs to mean the union no longer represented the majority of its workers, the Fifth Circuit ruled NLRB should have considered the evidence presented to justify the employer's failure to bargain with the union.

"[I]t is not inescapable that one of the first things an employee would do, on resolving to leave the union, is to ask the employer to stop taking union dues out of his paycheck," the court said. "Although this might not be the only reason—or even the most common reason—an employee asks to cease participation in the checkoff program, it is nonetheless a realistic possibility that can engender some degree of uncertainty in the mind of the employer."

Although the evidence, alone, was not enough to assume that the union lacked majority support, the Fifth

Circuit said it should not have been discredited as evidence and that when it is combined with the other evidence offered by the employer to justify its failure to bargain, NLRB should not have found the company liable for an unfair labor practice.

Company Liable for Restoring Retiree Benefits, Court Affirms

A company is liable for restoring the level of health insurance benefits guaranteed in 1976 by its predecessor to retirees, the U.S. Court of Appeals for the Second Circuit ruled June 7 (*LaForest v. Honeywell Int'l Inc.*, 2d Cir., No. 03-9007, unpublished opinion 6/7/04).

To allay employee concerns when selling plants to Facet Enterprises in 1976, Bendix Corp. and the union representing the workers negotiated a "guaranty" agreement in which Bendix promised that retirees would retain lifetime health care benefits at the level in place on April 1, 1976. The agreement provided that benefits could be reduced only by an agreement between the union and Facet, or any of its successors.

After a number of corporate transitions, Honeywell became the successor to Bendix, and Motor Components LLC became the successor to Facet. In July 2002, Motor Components, without bargaining with the union, notified retirees that their health and life insurance benefits would be reduced Sept. 1, 2002.

A district court granted summary judgment to the retirees in August 2003 (8 COBB 99, 8/21/03) and issued a preliminary injunction the following month (8 COBB 117, 10/2/03).

Affirming the district court's grant of summary judgment for the retirees, the appeals court found that the union did not acquiesce to the benefit reduction and that Honeywell is contractually obligated to provide for maintenance of benefits.

The appeals court also approved the district court's decision to issue a preliminary injunction requiring Honeywell to restore the previous levels of health insurance and prescription drug benefits. The retirees submitted sufficient evidence that they would suffer irreparable injury by having to forgo needed prescriptions if the benefit levels were not restored, the appeals court found.



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JUNE 24, 2004

FMCS Labor-Management Relations Conference

Challenges facing contract negotiators in the auto, telecommunications, aerospace, airline, and electrical products manufacturing industries were discussed at the 12th National Labor-Management Conference, sponsored by the Federal Mediation and Conciliation Service in Chicago June 2-4.

Additional conference coverage is available in the COBB issue dated June 10 (9 COBB S-1, 6/10/04).

UAW, Automakers Agree 2003 Contract Reflects Shared Effort to Remain Competitive

As they entered 2003 contract negotiations, the United Auto Workers and the Big Three automakers agreed that the U.S. auto industry faced critical competitive challenges, although they differed on the cause of those challenges and the proper remedies, according to representatives of UAW and General Motors Corp.

The union and companies—GM, Ford Motor Co., and DaimlerChrysler, as well as parts manufacturers Delphi Corp. and Visteon Corp.—shared a number of concerns, said Linda Ewing of UAW's research department and Arthur R. Schwartz, general director of human resource planning for GM's labor relations unit.

According to UAW research, the Big Three's share of the U.S. automobile market dropped from 64 percent in 1999—the last time the union negotiated national auto agreements—to less than 56 percent in the first half of 2003, Ewing said. Although vehicle sales were relatively strong, foreign-owned automakers made gains in market share.

UAW grouped its concerns about the automakers' competitiveness into three categories, according to Ewing. One consisted of public policy issues, such as rising health care costs and what the union saw as the need for a national health care system. The second involved the union's demand that the automakers better manage their businesses, such as through improved product design.

The third group of issues involved those that would be covered by the collective bargaining process, Ewing

said. UAW was "determined that our members should not have to shoulder the entire burden" of making the automakers more competitive.

Schwartz agreed that some of the automakers' competitive challenges, such as currency exchange rates and the increasing need to offer customer rebates, did not involve issues covered by the collective bargaining process. But the firms were concerned about their "legacy costs" related to retirees' pension and health benefits. Competitors such as Toyota have only a handful of retirees compared with the U.S. companies, Schwartz said. GM alone has 300,000 retirees.

There was an acute desire to avoid the fate of the steel industry, where giants such as Bethlehem Steel, once thought to be unsinkable, have gone bankrupt in part because of legacy costs, Schwartz said.

Each Side Had Bargaining Priorities

Although UAW recognized the automakers' competitiveness issues, it considered cuts in health benefits to be unacceptable, Ewing said. Union President Ron Gettelfinger signaled his intention to stand firm on health care prior to the start of bargaining.

Although the automakers in general shared an agenda, each had individual priorities, Schwartz said. With the most retirees, GM was opposed to any increase in pension levels for current retirees. Ford officials saw a need to restructure to reduce overcapacity, while DaimlerChrysler wanted to sell off certain parts plants.

In negotiations to replace contracts expiring Sept. 14, 2003, there were key differences in how the bargaining proceeded compared with prior talks, Ewing said. The union normally declared a "lead" company around Labor Day and concentrated on negotiating with that company, returning to the other two once the first contract was completed.

Conference coverage by Eric Lekus and Mike Bologna.

In 2003, however, no lead company was chosen. As a result, the union vice presidents heading up negotiations with each particular company had more responsibility than usual, Ewing said. The union's support infrastructure, which normally concentrated its resources on the lead company, had to support all the negotiations simultaneously. One key was Gettelfinger, Ewing said, describing him as "our indefatigable president who didn't need a lot of sleep."

The expedited process resulted in five tentative agreements reached within a five-day period in mid-September 2003.

Base Wage Rates Flat for First Two Years

The contracts did not have any base pay increases for the first two years. Instead they provided \$3,000 ratification bonuses, second-year lump-sum payments equivalent to 3 percent of base pay, and wage hikes of 2 percent in the third year and 3 percent in the fourth year. Health care benefits remained essentially unchanged, with the companies paying workers' full health insurance premiums, although higher copayments for brand-name prescription drugs were introduced (8 COBB 115, 10/2/03).

The Delphi and Visteon contracts closely tracked those at the Big Three, except that they called for the parties to negotiate a two-tier wage and benefit structure. UAW reached agreements with Delphi in April and Visteon in May under which new hires will start at \$14.00 per hour—rather than the previous rate of \$17.91—and will top out at \$14.50, \$16.50, or \$18.50, depending on job classification (9 COBB 55, 5/13/04).

The Delphi and Visteon contracts represent "our recognition that the parts sector operates in a different market than assembly," Ewing said.

Communications Industry's Changing Face Poses Challenges for Contract Negotiators

Technological improvements and merger and acquisition activity are among the reasons for the dramatic change in the telecommunications industry over the last several years, and labor relations are being affected by those shifts, according to labor, management, and academic speakers at the conference.

Probably no U.S. industry has experienced such rapid change as telecommunications, according to Jeffrey Keefe, director of labor programs at Rutgers University in New Jersey. Only 35 percent of telecommunications activity in the United States in 2003 was carried over the publicly switched network operated by the Regional Bell Operating Companies (RBOCs)—the traditional local phone companies. In the next year, it is projected that the number of cell phones will exceed the number of traditional "wireline" phones. Furthermore, there is tremendous growth in the use of dedicated data lines, which—in addition to Internet access—allow users to make phone calls using Voice Over Internet Protocol, Keefe said.

CWA Focuses on New Technology

Debbie Goldman, a research economist for the Communications Workers of America, said the union realized more than a decade ago that if it is to survive and be able to negotiate strong contracts, it needed to rep-

resent employees working on the new telecommunications technology.

At the same time, the union realized that much of the new work was being performed by nonunion companies, Goldman said. For example, many Americans receive broadband Internet access through their cable television providers—an industry in which unions have had very modest organizing success.

CWA has tried to use its existing relationships with the RBOCs in an attempt to secure neutrality—and if possible, card-check—agreements in order to organize their new wireless divisions, according to Goldman. The union's greatest success has been at Cingular Wireless, where CWA represents approximately 22,000 employees, or virtually all nonmanagement staff. Cingular management stresses that the union is a key stakeholder in the company's success.

Cingular adopted a cooperative approach after some initial internal disagreements, Neil Keith, Cingular's executive director for labor relations, said. One of Cingular's corporate parents, BellSouth, has had a rocky relationship with its union. However, labor-management relations at its other corporate parent, SBC Communications, traditionally have been good.

Eventually, the company adopted the view that its time was better spent fighting its competitors rather than the union, Keith said. "We've partnered with the union. It's worked for us. The only way we can cope with change is to have good people."

Goldman contrasted Cingular's approach with that of Verizon Wireless, which she said continues to depict the union as a third party that it would prefer not intervene in its relations with employees.

Different Labor Relations Approaches at Verizon

Verizon Communications Inc.—the wireline phone company which has a stake in, but is separate from, Verizon Wireless—was formed out of the merger of Bell Atlantic and GTE. Verizon Communications has 107,000 workers covered by 77 collective bargaining agreements, according to Curtis G. Waldron, the company's executive director of labor relations.

One of the biggest challenges for Verizon has been managing the different cultures of the companies that merged in 2000, Waldron said. Bell Atlantic traditionally had tense relationships with its unions—CWA and the International Brotherhood of Electrical Workers—compared with GTE's relationship with its unions.

The Bell Atlantic contracts—more than 30 in total, covering workers from Maine to Virginia—all expired on the same day. However, one-third of the GTE contracts—which are three years in duration and cover employees throughout the United States—expire each year, Waldron said.

The same negotiators who handled contract talks for a particular region in the past continue to handle those negotiations, which has helped minimize some of the cultural challenges, according to Waldron.

In addition, the contracts for workers who previously were employed by Bell Atlantic were largely negotiated at common "issues" tables, Waldron said. Even though there were local contract negotiations as well, the common tables dealt with wide-ranging issues such as health care and job security. Verizon now hopes to set a common pattern for contract settlements for the

former GTE workers, starting with contracts up for renewal this summer.

Negotiators at Aerospace Firms Resemble 'Warring Family Members,' IAM Official Says

When it comes to labor-management negotiations in the aerospace sector, talks may be adversarial but the parties have the same interests at heart, according to Robert V. Thayer, general vice president of the International Association of Machinists.

"We're more like warring family members than anything else," Thayer said, adding that both sides resent criticism from outsiders not familiar with their industry.

Labor and management will have to find a way to advance those common interests as the industry rides out the "perfect storm" of economic recession, reduced defense spending on new aircraft, and cutbacks in air travel following the 2001 terrorist attacks on the United States, Thayer said. In 1974, there were about 200,000 active IAM members working in aerospace, Thayer said; today, that figure is down to 82,000 members.

One change IAM believes could help the industry become more competitive is negotiation of companywide and even sectorwide collective bargaining agreements, according to Thayer. That change could help control health care costs, for example.

"By pooling our resources across companies, we could negotiate better rates and apply pressure to providers," he said. Wider agreements also could be beneficial to joint efforts to recruit a new generation of aerospace workers to succeed the current aging workforce that is nearing retirement.

Thayer called on aerospace employers to recognize the positive role unions can play in boosting their competitiveness. Unions in general bring labor peace, he said, adding that the vast majority of contracts are reached without work stoppages. Unions also have the ability to educate aerospace workers.

Changes in Store for Boeing Workforce

Barring unforeseen circumstances such as another terrorist attack, the prospects for a recovery in commercial aviation production are good, according to Jerry L. Calhoun, vice president of employee and union relations at Boeing Co.

"We've probably seen the bottom of the market," Calhoun said, adding that Boeing's market share has dropped dramatically in the last few years.

Boeing is counting on sales of its new 7E7 aircraft—which is designed to be much more efficient to operate than previous commercial aircraft—to boost its bottom line in the future. But the sale, production, and maintenance of 7E7 aircraft will represent new challenges for Boeing workers. For example, the production process essentially will be "toolless," Calhoun said.

"All of this is going to require new technologies in the hands of our workers, and it's all going to require new skills," Calhoun said, adding that Boeing will have to make major investments in its human capital.

Echoing a theme often heard during the FMCS conference, Calhoun cited the dramatic rise in health care costs as a national problem requiring solutions that cannot be devised solely at the bargaining table. "Somehow, we need to raise it to that [national] level."

Professor Cites Importance of Labor Stability

As aerospace companies move forward, they should be aware of the role labor stability can play in their business, according to Morris M. Kleiner, professor of public affairs and industrial relations at the University of Minnesota.

Kleiner presented research demonstrating that during production of Lockheed's L-1011 aircraft, the number of hours required to produce an aircraft decreased as employees became more familiar with the process, but then spiked after a round of layoffs and recalls. Even when workers returned to their jobs, they needed time to relearn what they had forgotten.

McDonnell Douglas—now part of Boeing—had a similar experience with the production of its MD-80 aircraft, Kleiner said. There were several spikes in the amount of time required to produce an aircraft that were related to strikes, a period during which union members worked to rule, and changes both in union leadership and plant management.

Airbus, which for the first time in 2003 delivered more commercial aircraft than Boeing, has said that its competitive advantage can be partly attributed to its policy of keeping production workers on the payroll—even having them build speculative aircraft without a known buyer if necessary—rather than lay off and recall them, according to Kleiner.

Six Airlines Face Uphill Struggle to Regain Competitiveness, Profitability, Speakers Warn

Six major U.S. airlines face an uphill struggle as they seek profitability through overall and labor cost structures that will make them competitive with low-cost carriers, a former Air Line Pilots Association negotiator and a US Airways official said.

"While we are in the midst of a very bad time" for the big six airlines—American, Continental, Delta, Northwest, United, and US Airways—"it is not everyone" who is struggling, said Seth D. Rosen, director of International Pilot Service Corp. and a former ALPA staff representative.

Low-fare airlines, as well as cargo and regional carriers, are seeing more success than the six "network" airlines, he said. As network carriers, they rely on flights into central hubs to move large numbers of passengers around the world.

A number of factors have compounded the current crisis for the airlines, according to both Rosen and Jerry Glass, senior vice president of employee relations at US Airways. These factors include the recession, the 2001 terrorist attacks on the United States, the 2003 severe acute respiratory syndrome (SARS) epidemic, a reduction in corporate spending on travel, and rising fuel costs.

Although those factors have affected all airlines, the low-fare carriers have numerous advantages over the network carriers, Glass said. Low-fare carriers use a single type of aircraft in their fleets to keep training and maintenance costs low and have newer fleets that require less upkeep. Their benefit costs are lower because they have few or no retirees and fairly limited 401(k) retirement plans rather than defined benefit programs.

In addition, the low-cost carriers have left certain segments of the market—such as international flights and hub-and-spoke operations that serve smaller desti-

nations, both of which are more expensive to operate—to the network carriers. They also had the advantage of starting from scratch. For example, Southwest Airlines contracts out three-quarters of its heavy aircraft maintenance, Glass said. US Airways might save money if it did the same thing instead of doing most such work in-house, but at the cost of thousands of jobs.

For decades, there was a stable relationship between growth in airline revenue and nominal gross domestic product, with airline revenue pegged at approximately 70 percent of nominal GDP, Glass said. That figure has slid to approximately 50 percent, costing the airlines billions in revenue. Furthermore, revenue per available seat mile—a common way of tracking revenue in the industry—has dropped from 12 cents in 1977 to 9 cents in 2004.

“These are profound and traumatic issues that management and our workforce have to deal with,” he said. “This industry is cyclical in nature . . . but we’re never going back to the high” revenue levels of the late 1990s.

Glass disputed the notion that there is a surplus of capacity in the industry, describing the situation instead as an imbalance. There is too much capacity pegged to assumptions of higher revenue, and too little capacity at the low-fare carriers, he said.

“There absolutely is no single solution,” Glass said. “This is the most painful and gut-wrenching process any of us have been through.” Still, he said, the airlines have to stay focused on their ultimate goals of saving as many jobs as possible and returning to profitability.

Employees Feel the Pinch

Union-represented airline employees have had to accept reductions in wages and benefits, as well as reduced job security, Rosen said. In some cases, they have been able to secure some equity and profit-sharing improvements, and changes in corporate governance.

“I think we’re in the middle of this period of downturn.” Rosen said. There still is much uncertainty in the economy that is exacerbating the industry’s poor condition, he added.

General Electric Official Says Adaptability Key to Business, Labor Relations Strategy

General Electric is a 126-year-old company that has thrived on its ability to change, according to William J. Conaty, the company’s senior vice president for corporate human resources.

“You can’t fight change. You have to adapt to it,” Conaty said. That philosophy applies to GE’s labor relations, just as it applies to other aspects of the business.

GE started out as a light bulb and appliance manufacturer, but services—from financial services to public infrastructure work in areas such as water delivery and security—have become a key part of the business, according to Conaty.

As GE approached national contract negotiations in 2003 with 13 unions, including the International Union of Electronic Workers and the United Electrical Workers, the company had to adapt to new circumstances, Conaty said. Management and the unions traditionally had negotiated together in a coordinated bargaining committee, but the unions insisted on negotiating with GE separately in 2003.

Labor Peace of 30 Years Interrupted

In addition, a 30-year history of labor peace was interrupted when IUE employees went on strike for two days to protest proposed reductions in health care benefits (8 COBB 3, 1/9/03). The threat of further work stoppages loomed over the talks, according to Conaty.

Despite the strike and the challenge of coordinating separate negotiations, the parties were able to come to agreement without further strikes, Conaty said. Even with the separate negotiations, the contracts with the 13 unions were virtually identical (8 COBB 73, 6/26/03).

The contracts contain innovative provisions in health care, he said. For example, although covered employees now have to pay more for their health care, nonunion and executive employees are expected to absorb greater cost-sharing in order to ease the burden on their lower-paid counterparts over the term of the contract. In addition, GE has joined a variety of public policy forums to promote national solutions to rising health care costs and to improve quality of care.

Another point of contention was the unions’ demand that the company remain neutral during future organizing campaigns at GE plants not now represented. In the end, GE agreed to abide by a code of conduct for the company’s existing policy on organizing campaigns.

Overall, Conaty attributed the successful talks to a focus on maintaining business competitiveness, the ability to find fair and measured responses to the toughest issues, and the strength and professionalism of the bargainers on each side.

Global Outsourcing Remains Difficult Issue

The outsourcing of work overseas is another area where both GE and its labor unions are adapting, Conaty said. Outsourcing has been an issue for the company for more than 30 years, although the global dimensions of the trend are more recent.

Conaty urged labor leaders and the public to remember that global sourcing sometimes is helpful for U.S. jobs. GE’s U.S. employment levels have remained stable over the last decade in part because of the company’s ability to both reduce costs and increase exports through global trade, he said.

At the same time, not all U.S. jobs can be saved in the global marketplace, Conaty said. In the 1980s, through negotiations with its unions, the company agreed to provide longer notice periods before layoffs and more generous severance benefits. In the 1990s, GE’s unions won the right to play a greater role in the decisionmaking process prior to layoffs. The right was expanded in 1997 through the creation of job preservation committees, which are joint labor-management groups that try to find alternatives that would make keeping in-house work competitive.

The job preservation committees have had some success, particularly at smaller facilities, Conaty said. Their ability to save jobs depends in large part on the pre-existing labor-management relationship at the local level. Conaty recommended that other companies consider such committees as they try to provide their workers with more security in a global economy.

Continuing education and skills development is another way of ensuring U.S. workers can protect their jobs in an era of global outsourcing, he said. GE spends \$1 billion a year on training, “and we would be prepared to spend a lot more.”